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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RUBEN PAUL GONZALES, an individual,

Plaintiff,

vs.

BREA'S SMOG TEST ONLY & AUTO REGISTRATION, a Business Entity and HASHEM HEYDARI, an individual,

Defendants.

Case No.:

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF FOR VIOLATIONS OF AMERICANS WITH DISABILITIES ACT; CALIFORNIA UNRUH CIVIL RIGHTS ACT; GENERAL NEGLIGENCE

Plaintiff RUBEN PAUL GONZALES ("Plaintiff") complains of defendants BREA'S SMOG TEST ONLY & AUTO REGISTRATION, a Business Entity and HASHEM HEYDARI, an individual, (all defendants collectively referenced herein as "Defendants") as follows:

PARTIES

1. Plaintiff is a California resident with physical disabilities. He suffers from paralysis to the left side of his body as a result of a fall from a second-floor of a two-story building in 1996. Plaintiff had landed on his head and suffered swelling on his brain. He underwent surgery and was hospitalized for six months. A year later he was struck by a hit and run driver on the left side of his body while crossing a street. This accident resulted in injuries to his left knee that required metal pins to be permanently inserted. He has difficulty walking and utilizes a wheelchair for mobility.

2. Defendant BREA'S SMOG TEST ONLY & AUTO
REGISTRATION is a smog shop located at 815 S. Brea Blvd., Brea, CA 92821.

3. Plaintiff is informed and believes and on that basis alleges that defendant HASHEM HEYDARI is the owner of the premises, building, and/or the land located at 815 S. Brea Blvd., Brea, CA 92821.

4. Plaintiff does not know the true names of all possible defendants, their business capacities, their ownership connection to the property and the business, or their relative responsibilities in causing the access violations herein complained of, and plaintiff alleges a joint venture and common enterprise by all defendants. Plaintiff is informed and believes that each of the defendants is responsible in some capacity for the events and damages alleged or is a necessary party for obtaining appropriate relief. Plaintiff shall seek leave to amend the

1 complaint to name and add other defendants when their identities are ascertained.

2 **JURISDICTION & VENUE**

3 5. This court has subject matter jurisdiction over this action pursuant to
4 28 U.S. Code § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans
5 with Disabilities Act of 1990, 42 U.S. Code § 12101, et seq.

6 6. Pursuant to pendant jurisdiction, an attendant and related cause of
7 action arising from the same nucleus of transactions is brought under California's
8 Unruh Civil Rights Act (Civil Code §§51-52) which expressly incorporates the
9 Americans with Disabilities Act.

10 7. Venue is proper in this court pursuant to 28 U.S. Code § 1331(b) and
11 is founded on the fact that the real property which is the subject of this action is
12 located in this district and Plaintiff's causes of action arose in the district.

13 **FACTUAL ALLEGATIONS**

14 8. Plaintiff went to BREA'S SMOG TEST ONLY & AUTO
15 REGISTRATION in or about May 2024. When entering the parking lot, Plaintiff
16 noticed that there was no handicap parking space, handicap parking sign, or van
17 access. Therefore, the condition of the parking lot denied the Plaintiff as a
18 disabled person full and equal access and caused him difficulty and frustration.

19 9. Failing to provide full and properly maintained access to the
20 handicap parking area amounts to a violation of the operative American with
21 Disabilities Act Guidelines (ADAAG). Additionally, the lack of signage shows
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1 neglect and that Defendants are not implementing any policy of upkeep so as to
2 give disabled persons practical access to the given premises and services equal to
3 the access enjoyed by non-disabled persons, and this amounts to illegal
4 discrimination against disabled persons who wish to patronize BREA'S SMOG
5 TEST ONLY & AUTO REGISTRATION as a place of public accommodation.

6
7 10. Plaintiff personally encountered violations of applicable legal
8 obligations and standards that prevented him from full and equal access to
9 convenient, safe, adequate, and appropriate parking. Plaintiff would like to
10 patronize this establishment again but cannot do so until the Defendants remove
11 these barriers or obstacles to proper access equal for everyone and correct all
12 violations of law. Plaintiff seeks to have all barriers and obstacles related to
13 disabled persons remedied, whichever may exist, regardless of whether he
14 personally encountered any of them. See Doran v. 7-11; 524 F3d 1034 (9th Cir
15 2008), holding that once a handicapped plaintiff encounters one barrier to equal
16 access at a given site, he can sue to have all other barriers relating to his disability
17 removed even if he did not personally encounter those barriers on the given
18 occasion. Additionally, Plaintiff believes and alleges that Defendants' failure to
19 remedy and remove the specific barriers (difficulties) to access for disabled
20 persons, as mentioned in the Paragraphs above, is intentional because (a) these
21 particular barriers are obvious, and (b) Defendants, jointly and severally,
22 exercised full control and dominion over the conditions on the land and at the
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1 business at this particular location, and therefore the lack of and barriers to full
2 equal access for disabled persons was not mere “accidental oversight”, given that
3 had Defendants intended any other situation they had the means and ability to
4 make the land and business fully compliant with the legal requirements mandated
5 by the laws, as set forth in the causes of action below.

7 **FIRST CAUSE OF ACTION**
8 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**
9 **(Against All Defendants (42 U.S. Code § 12101, et seq.))**

10 11. Plaintiff realleges and incorporates by reference the allegations
12 contained in all prior paragraphs of this complaint.

13 14. Defendants own, operate, lease from, or lease to a place of public
15 accommodation commonly known as BREA'S SMOG TEST ONLY & AUTO
16 REGISTRATION. Under the ADA, it is an act of discrimination for any person(s)
17 who owns, leases (or leases to), or operates a place of public accommodation to
18 deny to disabled persons the full and equal enjoyment of the goods, services,
19 facilities, privileges, advantages, or accommodations of any place of public
20 accommodation. 42 U.S. Code § 12182(a). U.S. Code § 12182(b) defines
21 discrimination, *inter alia*, as follows:

22 23 a. A failure to make reasonable modifications in policies,
24 practices, or procedures, when such modifications are necessary to
25 afford such goods, services, facilities, privileges, advantages, or
26 accommodations to individuals with disabilities, unless the entity can
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1 demonstrate that making such modifications would fundamentally
2 alter the nature of such goods, services, facilities, privileges,
3 advantages, or accommodations. 42 U.S. Code § 12182(b)(2)(A)(ii).

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5 b. A failure to remove architectural barriers, and
6 communication barriers that are structural in nature, in existing
7 facilities, ...where such removal is readily achievable. See 42 U.S.
8 Code § 12182(b)(2)(A)(iv). Barriers can be defined by reference to
9 the ADAAG, found at 28 Code Federal Regulations, Part 36,
10 Appendix D.

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12 c. A failure to design and construct facilities for first
13 occupancy, if later than 30 months after July 26, 1990, that are readily
14 accessible to and usable by individuals with disabilities, except where
15 an entity can demonstrate that it is structurally impracticable to meet
16 the requirements of such subsection in accordance with standards set
17 forth or incorporated by reference in regulations issued under this
18 subchapter. 42 U.S. Code § 12183(a)(1).

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20 13. Defendants are persons or business entities that own, operate, or lease a
21 place of public accommodation. As such, Defendants are required to avoid
22 discrimination and have specific duties to (1) ensure that all construction,
23 alteration, or modification is barrier-free as to disabled persons and complies with
24 the currently operative ADAAG; and/or (2) remove all existing barriers to
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1 disabled persons where such removal is readily achievable, and/or (3) to provide
2 alternatives to barrier removal for the benefit of the disabled persons so that they
3 do enjoy equal access at places of public accommodation. Defendants have failed
4 to meet these obligations. Consequently, Plaintiff is entitled to court-ordered relief
5 against the defendants, to make sure that within six months from the beginning of
6 this action the defendants render their public accommodation premises fully
7 compliant with the ADA.
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10 **SECOND CAUSE OF ACTION**
11 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**
12 **(Against All Defendants (Cal Civil Code § 51-53))**

13 14. Plaintiff realleges and incorporates by reference the allegations contained in
15 all prior paragraphs of this complaint.

16 15. Because Defendants violated Plaintiff's rights under the ADA, they also
17 violated the Unruh Civil Rights Act and are liable for damages. Civil Code §
18 51(f), 52(a).

19 16. Because the violation of the Unruh Civil Rights Act resulted in difficulty,
20 discomfort, and embarrassment for the plaintiff, the defendants are also
21 responsible for statutory damages, i.e., civil penalties. See Civil Code § 51(f),
22 52(a).

THIRD CAUSE OF ACTION GENERAL NEGLIGENCE (Against All Defendants)

17. Plaintiff realleges and incorporates by reference the allegations contained in all prior paragraphs of this complaint.

18. Defendants owe a duty of care to Plaintiff, arising under the ADA and Unruh Civil Rights Act, to provide safe, convenient, and accessible facilities.

Their violations of this duty, as alleged in the preceding paragraphs of this complaint, has caused inconvenience, injury, and damage to Plaintiff in the amount of at least minimal amounts of damages allowed by applicable statutes, the exact amount to be determined at the trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this court award damages and provide relief against all named Defendants, jointly and severally, as follows:

1. For mandatory injunctive relief, compelling Defendants jointly and severally to comply with the Americans with Disability Act and the California Unruh Civil Rights Act by fully correcting all violations of the requirements of these laws within six months of being served with Summons and Complaint in this action, and that said Defendants be required to report to Plaintiff and to the Court of the actual status of the correction of the defects charged in this Complaint on the next day after the six month period has expired.

2. For damages under the Americans with Disability Act and/or the Unruh

1 Civil Rights Act where applicable, which statutes provide for actual damages and
2 a statutory minimum of \$4,000 per violation. If the Plaintiff cannot recover under
3 both Unruh and ADA, simultaneously, an election will be made prior to or at trial,
4 at an appropriate stage in these legal proceedings.
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6 3. For damages for general negligence, in the amount of at least minimal
7 amounts of damages allowed by applicable statutes, or alternatively \$4,000, the
8 exact amount to be determined at trial.
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10 4. For reasonable litigation expenses and costs of suit pursuant to 42 U.S.
11 Code § 12205, Cal Civil Code § 52, and Cal Code of Civil Procedure § 1021.5.
12 For reasonable attorneys' fees pursuant to 42 U.S. Code § 12205, Cal Civil Code
13 § 52, and Cal Code of Civil Procedure § 1021.5, in the amount of \$4,000.
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15 5. For such other and further relief as the court deems just and proper.
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18 DATE: September 24, 2024

THE DISABILITY ACCESS CENTER



21 Faud Haghghi, Esq.
22 Attorney for Plaintiff,
23 RUBEN PAUL GONZALES
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